Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No._____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2002

Melody F. Primm,
Petitioner

v.

Country Companies,
Respondents

On Petition for a Writ of Certiorari to the Court of Appeals, Division One, for the State of Washington

PETITION FOR A WRIT OF CERTIORARI

Melody F. Primm
Pro Se
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30 pp

QUESTION PRESENTED

Whether the Washington Court of Appeal's complete disregard for the First Amendment is a basis for remand for a trial of Melody Primm's civil claims in King County Superior Court.

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Melody F. Primm respectfully petitions for a writ of certiorari to review the judgment of the Washington Court of Appeals for Division One.

OPINIONS BELOW

The opinion of the Washington Court of Appeals is reported at 2001 WL 1338455 (October 29, 2001)(unpublished). The Washington Supreme Court's denial of certiorari is reported at. 146 Wash.2d 1006, 45 P.3d 552 (May 1, 2002).

JURISDICTION

The Washington Court of Appeals filed its decision on October 29, 2001. The Washington Supreme Court filed its decision on May 1, 2002. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257.

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

UNITED STATES CONSTITUTION, FIRST AMENDMENT AND 14TH AMENDMENT. RCW 7.04.150.

STATEMENT OF THE CASE

This petition arises from the Washington State Supreme Court's denial of Petitioner's appeal from the Washington Court of Appeals, Division One. The Washington Court of Appeals, Division One, in turn arose from a protracted dispute between Melody F. Primm and Country Companies, involving ***Melody Primm's struggle to obtain a redress of her claims in a court of law*** and Country Companies's successful efforts to compel Melody Primm to arbitration in ***the absence of a contract to arbitrate***.

Although Country Companies gave Melody an ***excellent employment comment*** up until the time she was terminated, she was fired so that Country Companies could obtain her large business and redistribute it amongst other agents... Nevertheless, she arbitrated pursuant to contract..

However, the arbitration was conducted entirely by fax, without a hearing, and without Melody's own presence and testimony. Country Companies admitted in their own legal brief that "***there was no hearing***". On April 23rd, 1996, the arbitrator awarded summary judgment for Country Companies on an at will theory. Nevertheless, Melody was ordered to pay $6,840.00 for that "arbitration".

Subsequently, Country Companies ***neglected*** to reduce the arbitration award to a judgment pursuant to RCW 7.04.150. The statute of limitations had passed and it was now too late for Country Companies to reduce the arbitration award to a judgment. Since the statute of limitations was still running on Melody's claims, including ***new*** defamation and tortuous interference of business expectancy and tortuous interference with contract claims arising after her termination, Melody therefore filed a lawsuit to redress her claims in King County Superior Court which was filed on July 18, 1997.

On September 30, 1997, King County Superior Court stayed Melody's complaint. Subsequently, on August 26, 1998, King County Superior Court ordered Melody to a ***second*** arbitration, including the ***new*** claims arising ***after*** her termination. King County Superior Court threatened Melody with contempt if she didn't arbitrate a second time, even though there was no new contract to arbitrate, nor was there a contract to arbitrate the claims arising after Melody's termination.

At the second arbitration, the arbitrator gave an arbitration award in favor of Country Companies on the basis of collateral estoppel (even though no final judgment exists since an arbitration award not confirmed under RCW 7.04.150 is not a final judgment as stated in Larsen v. Farmers Ins. Co., 80 Wn.App. 259, 909 P.2d 935 (1996)). The arbitrator also based his decision on statute of limitations, even though Melody was compelled to arbitrate and even though it was a protracted dispute.

In addition, none of Melody's witnesses were permitted to testify.

Melody later discovered, during her appeal in the Court of Appeals, that the arbitrator was covertly paid, without Melody's knowledge, by Country Companies's insurer, Crum & Forster. In violation of 18 U.S.C. §1962, the arbitrator was paid up front, Country Companies was insulated from liability, and since Country Companies was insulated from liability, Crum & Forster was not in danger of indemnifying Country Companies. Nevertheless, even though Crum & Forster paid the arbitrator Melody's arbitration fees for an arbitration she didn't want in the first place, Country Companies has a lien against Melody's property for those fees. Melody is currently ordered to pay over $15, 000 dollars in sanctions and fees (fees that were pre-paid by an officious intermeddler, Crum & Forster).

In the Court of Appeals, the court failed to address the First Amendment issue. Nevertheless, even though Melody had a right of appeal, including a right to have a resolution of the First Amendment issue, Melody was sanctioned for an allegedly frivolous appeal. Moreover, the Chief Justice sitting on the Court of Appeals is a friend and former employer of opposing counsel in that case. The Chief Justice refused to recuse himself after Melody expressed that she could not get a fair hearing with his presence. Furthermore, the Court of Appeals exhibited discrimination against Melody since it threatened Melody numerous times to comply with the Rules of Appellate Procedure, yet ignored Country Companies's neglect of these same rules.

REASONS FOR GRANTING THE PETITION

The issue arising in this case is of paramount importance since it means corporate power can insulate itself from liability under the color of law provided in an arbitration award. Moreover, courts should not have the power to bar a United States citizen from the free exercise of their First Amendment right to petition the government for redress.

I. MELODY HAD A FIRST AMENDMENT RIGHT TO PETITION THE KING COUNTY SUPERIOR COURT FOR REDRESS OF HER CLAIMS IN A COURT OF LAW, INCLUDING THE INVIOLATE RIGHT TO A JURY TRIAL.

A. WASHINGTON COURTS PROVIDE FOR RAISING THE FIRST AMENDMENT ISSUE FOR THE FIRST TIME ON APPEAL.

Washington Rule of Appellate Procedure 2.5 provides that "[A] party may raise the following claimed errors for the first time in the appellate court: (1)lack of trial court jurisdiction, ...(3) manifest error affecting a constitutional right". In a case directly on point, the Court of Appeals considered for the first time on appeal the proper burden of proof in a defamation case because it raised a First Amendment issue. Hauter v. Cowles Publishing Co., 61 Wn.App. 572, 811 P.2d 231 (1991). Hauter is a civil case, just like the instant case. Moreover, in the instant case, the First Amendment issue is the salient issue.

B. MELODY'S CLAIMS WERE NOT SUBJECT TO ARBITRATION AGREEMENT.

1. Claims Arising After Melody's Termination Are Not Subject To Arbitration.

The claims Melody attempted to raise in her complaint filed on July 18, 1997 were not subject to any arbitration agreement. After Melody was terminated, Country Companies's employees, who were made agents, defamed Melody to her former customers. Moreover, Country Companies defamed Melody to the Insurance Commissioner, making patently false allegations against Melody.

Generally, Country Companies hired Melody on an at will basis, and provided for a contract to arbitrate, entirely drafted by Country Companies. "(I)t should be noted that contract language subject to interpretation is construed most strongly against the party who drafted it, or whose attorney who prepared it". Underwood v. Sterner, 63 Wash.2d 360, 387 P.2d 366 (1963). Thus, under common law construction, the contract to arbitrate does not include claims arising after Melody's termination. Since arbitration is an evisceration of Due Process rights, to Melody's detriment, the contract should be construed against Country Companies and not reach claims arising after Melody's termination. Moreover, since Melody received no new consideration, the common law rule of contracts bars Country Companies from compelling these claims to arbitration.

2. Claims Arbitrated Under the First Arbitration May Be raised Anew In A Court Of Law Since the First Arbitration Award Was Never Confirmed Pursuant To RCW 7.04.150.

The first arbitration awarded summary judgment on an at will theory in complete violation of Washington law that states that summary judgment may not be made on precisely the at will issue. Thompson v. St. Regis Paper Company, 102 Wash.2d 219, 685 P.2d 1081 (1984). However, Country Companies did not confirm the arbitration award as required by RCW 7.04.150. Since the statute of limitations was still running on Melody's claims, and since the first arbitration award, although "valid", was not "enforceable" under RCW 7.04.150, Melody proceeded to file a complaint for her claims on July 18, 1997.

However, the King County Superior Court stayed Melody's complaint on September 30, 1997, and compelled Melody to a ***second*** arbitration on August 26, 1998. As a result, the King County Superior Court rescued Country Companies from the provisions of RCW 7.04.150.

Contracts are construed most strongly against the drafter of the contract. Guy Stickney, Inc. v. Underwood, 67 Wash.2d 824, 410 P.2d 7 (1966). In Washington, "the purpose of arbitration is to avoid the formalities, the expense, and the delays of the court system". Perez v. Mid-Century Insurance Co., 85 Wash.App. 760, 766 934 P.2d 731 (1997) (emphasis added). Nevertheless, added expense was heaped upon Melody by compelling her to a second arbitration. Moreover, in lieu of the fact the arbitrator barred an evidentiary hearing at the second arbitration, Melody didn't get what she was to pay for. Contracts are supposed to be construed against the drafter, yet the order compelling Melody to arbitration resulted in construing Country Companies's own contract most favorably to the drafter, and most detrimentally to Melody. Moreover, the contract contained boiler plate language that is ordinarily construed against the drafter if enforced at all.

The King County Superior Court order compelling Melody t o a second arbitration went against policy expressed in Washington common law of contracts, and resulted in robbing Melody of her First Amendment right to Petition the government for redress.

The first arbitration award applied summary judgment in contravention to Washington Supreme Court authority directly on point, namely Thompson v. St. Regis Paper Company. The second arbitrator applied collateral estoppel in violation of law directly on point.

In the second arbitration, the arbitrator applied collateral estoppel even though no final judgment exists. Collateral estoppel requires a final judgment on the merits. Reninger v. State Dept. of Corrections, 134 Wn.2d 437, 951 P.2d 782 (1998). However, an arbitration award not confirmed pursuant to RCW 7.04.150 is ***not*** a final judgment. Larsen v. Farmers, 80 Wash.App. 259, 909 P.2d 935 (1996)(". . .an arbitration award is not the same thing as a final judgment of a court. We reach this conclusion primarily because Washington's statutory scheme for arbitration, RCW 7.04.010 et seq., provides for a rather elaborate process for the confirmation, vacation, correction, or modification of an arbitration award in court and for the entry of a judgment which conforms with the court's final determination. RCW 7.04.150, .160, .170, .180, .190.").

Moreover, in the second arbitration, the arbitrator applied the statute of limitations even though Melody was compelled to arbitrate those claims and even though it was a protracted dispute. The stay that stayed Melody's claims stayed claims that were timely filed.

C. MELODY'S FIRST AMENDMENT RIGHTS WERE VIOLATED AND THE COURT OF APPEALS DECISION, DIVISION ONE, FOR THE STATE OF WASHINGTON IS IN DIRECT CONFLICT WITH A RECENT UNAMIMOUS DECISION OF THIS COURT.

In its decision filed on October 21, 2001, the Court of Appeals neglected to protect the infringement of Melody's First Amendment rights perpetrated by the King County Superior Court. It simply glossed over the First Amendment issue by a cursory citation from RCW 7.04.150 that addressed the validity of an unconfirmed arbitration award but ignored the enforceability of such an award. Indeed, by compelling Melody to arbitrate a second time, the Superior Court superceded its authority when it ignored the policy of RCW 7.04.150 that clearly states "At any time within one year after the award is made, unless the parties shall extend the time in writing. . . ." (emphasis added). Melody never agreed for an extension of time as is evident by her filing a complaint in King County Superior Court. Moreover, the Court of Appeals failed to address the fact that claims arising after Melody's termination aren't bound by contract.

Generally, this Supreme Court has held that the Due Process Clauses protect civil litigants who seek recourse in the courts, either as plaintiffs attempting to redress grievances or as Defendants trying to maintain their rights. Logan v. Zimmerman Brush Co, 455 U.S. 422, 102 S.Ct. 1148, 1154 (1982).

It is true that the Due Process in civil cases is not identical with due process in criminal cases, since the individual's right to counsel isn't guaranteed in civil cases. However, the right to petition for redress of grievances in a tort case or a contract case is protected. For example, in Bill Johnson's Restaurants v. N.L.R.B., 461 U.S. 731, 103 S.Ct. 2161 (1983), an employer had sued a waitress in state court for libel and other torts, demanding relief that included $500,000 in punitive damages.

The alleged libel had been committed during efforts to organize a union. After a four-day hearing, an NLRB administrative law judge found that the employer had filed the state civil action to retaliate against the employee's exercise of rights under the National Labor Relations Act, and also found that the allegedly libelous statements were truthful. Relying upon those findings, the NLRB enjoined the employer from prosecuting the state action, and the Ninth Circuit Court of Appeals affirmed the Board's order.

The Supreme Court acknowledged that the broad, remedial provisions of the National Labor Relations Act were intended to guarantee employees the right to engage in concerted activity without fear of restraint or interference from the employer. Id. at 740. The Court also recognized the chilling effect on that right of a state lawsuit, particularly when filed against an hourly-wage waitress who lacks the backing of a union. Id. at 741. Nevertheless, this Court ***unanimously*** reinstated the state tort action.

Therefore, the First Amendment right (incorporated under the Due Process clause of the Fourteenth Amendment) to petition for redress of grievances in a tort or contract case in a state court is protected even if the state litigation has a chilling effect on federal statutory rights. The First Amendment right to petition the government for redress of grievances prevails over legislative policy.

Similarly, because Melody's contract duty to arbitrate had been discharge through performance when the first arbitrator issued its arbitration award and Melody paid the arbitration costs for that first arbitration, the King County Superior court order staying Melody's complaint and compelling her to a second arbitration chills Melody's First Amendment rights.

Country Companies had a contract that included both an agent review board hearing and a policy of progressive discipline. Country Companies had no basis to terminate Melody since Country Companies itself had prepared a record in the form of letters and awards stating Melody's outstanding employment. Country Companies never abided by its promises of fairness, an agent review board hearing, progressive discipline, nor even an evidentiary hearing at arbitration. The first arbitration was by fax and was not a hearing at all as admitted in various documents of Country Companies own admission. The second arbitration applied collateral estoppel (even though there was no previous hearing nor a final judgment) and statute of limitations (even though it was a protracted dispute and Melody was compelled to arbitrate).

Thompson v. St. Regis Paper Company, 102 Wash.2d 219, 685 P.2d 1081 (1984), states a handbook exception to the employment at will doctrine. This landmark Washington case modifies the employment at will doctrine. In lieu of Country Companies own promises in its handbooks, Melody could raise a colorable claim that the provisions in those handbooks were breached. Melody was fired without the proper notice promised in its agent review board hearing policy, and was not given a chance to improve as promised in its policy of progressive discipline. Melody received only favorable reviews of her performance. Country Companies breached it promises and has been insulated from liability by the Washington Court and arbitration system.

After Melody's termination, Melody's former customers were told defamatory things about Melody by Country Companies management and employees. The Washington Court of Appeals for Division One added insult to injury when it ignored Melody's First Amendment rights and sanctioned Melody for trying to defend those rights.

By heaping sanctions on Melody, for documents Country Companies never bothers to serve upon Melody, the Washington courts and Country Companies attempt to stop this appeal. The Washington Court of Appeals for Division One should have remanded this case for a trial on all of Melody's claims.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted.

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APPENDIX A
Court of Appeals Opinion

THE COURT OF APPEALS OF WASHINGTON,
DIVISION ONE

MELODY F. PRIMM
Appellant

V.

COUNTRY COMPANIES
Respondent

No. 47821-4-I

October 29, 2001

Appeal from Superior Court of King County, Docket No. 97-2-16822-8, judgment or order under review, date filed 11/22/2000; Stephen G. Scott, Judge.

Melody F. Primm, pro se, Shoreline, WA, for petitioner(s)

John M. Silk, Sara E. Metteer, Wilson Smith Cochran & Dickerson, Seattle, WA, for respondent(s).

UNPUBLISHED OPINION

ELLINGTON, J.

Melody Primm appeals from an order striking her motion to vacate an arbitration award as untimely, and awarding CR 11 sanctions. Because Primm's motion was untimely, she was not prejudiced by shortened notice of Country's motion to strike, and sanctions were warranted, we affirm. We also award sanctions for a frivolous appeal.

Primm worked for Country Companies (Country) as an independent contractor. The parties' contract provided that all claims or controversies would be resolved by binding arbitration: '[A]NY CLAIM OR CONTROVERSY RELATING TO OR ARISING OUT of the relationship between the agent and the Companies. . .shall be resolved exclusively by binding arbitration.' Clerk's Papers at 66. After Primm was terminated in 1995, she sought arbitration of several claims, including wrongful termination and commissions owed. The arbitrator ruled in favor of Country.

Country did not confirm the arbitration award within the one-year period set out by RCW 7.04.150. [FN 1: That statute provides: 'The validity of an award, otherwise valid, shall not be affected by the fact that no motion is made to confirm it.' RCW 7.04.150]. Primm filed a complaint in superior court, alleging essentially the same claims. The trial court granted Country's motion to compel arbitration. The second arbitration also resulted in an award for Country. This time, Country confirmed the award in superior court. Primm did not appeal. Later, however, she moved to vacate the award. Country moved to strike Primm's motion, and for CR 11 sanctions. The trial court granted Country's motions. Primm appeals.

The first question is whether Primm's motion to vacate was timely. In Washington, arbitration is regulated by statute and 'the rights of the parties are controlled by the statute.' Martin v. Hydraulic Fishing Supply, Inc., 66 Wn.App. 370, 372, 832 P.2d 118 (1992); Price v. Farmers Ins. Co., 133 Wn.2d 490, 496, 946 P.2d 388 (1997). Under RCW 7.04, a court 'may confirm, vacate, modify or correct an arbitrator's award.' Davidson v. Hensen, 135 Wn.2d 112, 119, 954 P.2d 1327 (1998). Notice of motion to vacate an award must be served 'within three months after a copy of the award is delivered to the party or his attorney'. RCW 7.04.180.

The three-month period established by RCW 7.04.180 is considered a statute of limitations. Dougherty v. Nationwide Ins. Co., 58 Wn.App. 843, 848, 785 P.2d 166 (1990). Its purpose 'is to expedite finality of the arbitration process. . .consistent with the overall objective of speedy resolution of disputes'. Dougherty, 58 Wn.App. at 849. Therefore, any action contesting an arbitration award must be brought within the three-month period set forth in RCW 7.04.180. Dougherty, 58 Wn.App. at 848; see also Martin, 66 Wn.App. at 372.

The arbitration was decided on July 13, 2000. The award was delivered to the parties on July 14, 2000. The trial court confirmed the award on August 11, 2000. Primm moved to vacate the award on November 8, 2000, more than three months after the arbitration award was delivered. Primm argues that the three-month period set forth in RCW 7.04.180 runs not from the date of delivery of the award, but from the date of its confirmation. But the statute is clear: RCW 7.04.180 provides that a party must seek to vacate an arbitration award within three months of its delivery. Confirmation is a separate procedure, provided for in RCW 7.04.150.

Primm also argues the statute is ambiguous as applied here. She relies upon Martin, pointing out that there, we identified 'inconsistencies among the various provisions of the statute'. Martin, 66 Wn.App. at 374 n. 4.

In Martin, we considered whether a motion to vacate an arbitration award may be filed after the time to appeal form an order confirming the award, and held that it may, because the time for the motion to vacate runs from the date of delivery of the award, which may extend beyond the time to appeal the confirmation order. In a footnote, we observed that the legislative time frames create an anomaly:'[T]HE STATUTE POTENTIALLY CREATES SITUATIONS WHERE ACTIONS taken in reliance on a final judgment confirming an arbitration award must somehow be undone if parties are permitted to file a motion to vacate after the 30-day appeal period has run'. Martin, 66 Wn.App. at 374 n. 4. But nothing in Martin indicates that we considered RCW 7.04.180 to be ambiguous as to the triggering event for the 90-day limitation; indeed, the opinion is to the contrary. The statutory language is plain, and Primm's motion to vacate was time-barred.

The second issue is whether CR 11 sanctions were proper. The trial court imposed CR 11 sanctions in the amount of $350 because Primm filed a motion 'not warranted by existing law nor by a good faith argument for the extension, modification, or reversal of existing law;. . .Plaintiff has interposed the motion for an improper purpose'. Clerk's Papers at 728. The order contains the following notation in the court's hand: Plaintiff has totally exhausted all avenues for relief in the Superior Court. Her multiple attempts to relitigate the merits of her claims have now reached the point where they are beyond any question frivolous. Further attempts to litigate these issues in this court can only result in further sanctions. Further attempts to secure relief should be directed, if at all, to the Court of appeals. Clerk's Papers at 728.

Primm contends that given Martin's recognition of inconsistencies in the statute, the court abused its discretion in imposing sanctions. CR 11 is intended to address filings not grounded in fact, not warranted by law, or filed for an improper purpose. Wood v. Battle Ground Sch. Dist., 107 Wn.App. 550, 574, 27 P.3d 1208 (2001). "To avoid the 20/20 hindsight view, the trial court must conclude that the claim clearly has no chance of success". Wood, 107 Wn.App. at 574 (quoting In re Cooke, 93 Wn.App. 526, 529, 969 P.2d 127 (1999)). Here, Country notified Primm that her motion to vacate the arbitration agreement was timebarred and that Country would be seeking sanctions. As discussed, there is no theory based upon Martin or otherwise, upon which Primm can avoid the time bar of RCW 7.04.180. The trial court did not err when it imposed sanctions against Primm for a motion that had no legal basis and had no chance to succeed.

Finally, Primm contends the trial court abused its discretion in considering Country's motion to strike her motion to vacate because Country's motion was served upon her less than five days before the scheduled hearing in violation of CR 6(d). Reversal for failure to enforce the notice provisions of CR 6 requires a showing of prejudice. Zimny v. Lovric, 59 Wn.App. 737, 740, 801 P.2d 259 (1990).

'To establish prejudice, the party making the challenge must show a lack of actual notice, a lack of time to prepare for the motion, and no opportunity to provide for countervailing oral argument and submit case authority'. Zimny, 59 Wn.App. at 740; see also Brown v. Safeway Stores, Inc., 94 Wn.2d 359, 364, 617 P.2d 704 (1980)(motion filed on the day of trial; no prejudice found where party presented countervailing oral argument and submitted case authority in support of its position); Barson v. Dep't of Soc. and Health Serv., 58 Wn.App. 616, 619-20, 794 P.2d 538 (1990)(when party has actual notice and time to prepare, deviation from CR 6(d) notice requirement may be allowed). Here, Primm filed her motion to vacate on November 8, 2000, and noted it for hearing on November 21. Country responded by filing a motion to strike and for sanctions, which it set for Monday, November 20, 2000. [FN2: There is some confusion in the record as to when the hearing actually occurred. Primm's motion to vacate was scheduled for Tuesday, November 21, 2000. Primm contends, and Country does not dispute, that Country's motion to strike was scheduled for Monday, November 20, 2000. No notice of hearing is in the record for Country's motion to strike; the November 20, 2000 date was found in SCOMIS. Judge Scott signed the order granting Country's motion to strike and for sanctions on November 21, 2000]. Country served Primm by mail on November 9, resulting in four days' notice rather than the required five days. See CR 6(a),(d),(e).

Primm alleged she was prejudiced because she had 'no actual notice until three days of the hearing'. Brief of Appellant at 17. Primm responded to Country's motion to strike, however, by filing a 15-page brief on November 17, her brief contained statutory and case authority in support of her position and also asserted that Country should be sanctioned under CR 11. Under these circumstances, Primm had both actual notice and time to prepare; she has failed to establish she was prejudiced by Country's violation of the notice requirements of CR 6. The trial court did not err in considering Country's motion. Country requests sanctions for a frivolous appeal under RAP 18.9. [FN3: RAP 18.9(a) provides, in relevant part: 'The appellate court on its own initiative or on motion of a party may order a party or counsel . . .who uses these rules (of appellate procedure) for the purpose of delay, files a frivolous appeal, or fails to comply with these rules to pay terms or compensatory damages to any other party who has been harmed by the delay or the failure to comply".]. "An appeal is frivolous if there are no debatable issues upon which reasonable minds might differ and it is so totally devoid of merit that there is no reasonable possibility of reversal". Presidential Estates Apt. Assoc. v. Barrett, 129 Wn.2d 320, 329-30, 917 P.2d 100 (1996)(quoting Fay v. Northwest Airlines, Inc., 115 Wn.2d 194, 200-01, 796 P.2d 412 (1990)(alteration in original)). Primm's arguments on appeal present no debatable issues, and we award Country sanctions for a frivolous appeal in the amount of $1,000.

Affirmed.

S/ Ellington J.
We Concur: S/Baker J. S/Coleman J.

Appendix B
Washington State Supreme Court Opinion

THE SUPREME COURT OF WASHINGTON

Melody F. Primm,
Petitioner,

v.

Country Companies,
Respondent

No. 71930-6
ORDER
C/A NO.47821-4-I

Department II of the Court (Justice Sanders did not sit and Justice Madsen sat in his place) considered this matter at its May 1, 2002, Motion Calendar, and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petition for Review is denied. Respondent's motion for sanctions is granted. Pursuant to RAP 18.9(a), sanctions in the amount of $500.00 are to be paid to the Respondent. The

Petitioner may not participate further in this litigation until all sanctions imposed at all levels of the Courts are paid.

DATED at Olympia, Washington this 1st day of May, 2002.

Gerry Alexander
S/_____
CHIEF JUSTICE

Appendix C

King County Superior Court Order [drafted by Country Companies]

Striking Motion to Vacate

SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

MELODY F. PRIMM,
Plaintiff, No. 97-2-16822-8SEA

Vs. ORDER STRIKING PLAINTIFF'S MOTION TO VACATE AND GRANTING CR 11 SANCTIONS

COUNTRY COMPANIES,
Defendant.

THIS MATTER has come before the Court on Defendants' Motion to Strike Plaintiff's Motion to Vacate and for Sanctions. The Court has reviewed the Motion, the Declaration of Defendants' counsel and the exhibits to it and the following pleadings submitted by the Plaintiff and reply pleadings submitted by the Defendant:

The Court finds that Plaintiff's Motion to Vacate is barred because Plaintiff filed it beyond the three-month limitations period established by RCW 7.04.180.

The Court further finds that Plaintiff has violated CR 11 by filing a motion that is not warranted by existing law nor by a good faith argument for the extension, modification, or reversal of existing law; The Court further finds that Plaintiff has interposed the motion for an improper purpose.

IT IS THEREFORE ORDERED that Plaintiff shall pay the sum of $350.00 to the Defendant, within 14 days of the date of this Order, as a sanction for violating CR 11.

DONE IN OPEN COURT this 21day of November, 2000.

S/Steven Scott
Superior Court Judge

[Judge's comments]: Plaintiff has totally exhausted all avenue for relief in the Superior Court. Her multiple attempts to relitigate the merits of her claims have now reached the point where they are beyond any question frivolous. Further attempts to litigate these issues in this court can only result in further sanctions. Further attempts to secure relief should be directed, if at all, to the court of appeals. SS

Presented By:
WILSON SMITH COCHRAN DICKERSON
S/
By John Michael Silk
WSBA# 15035
Of Attorneys for Defendant

Appendix D

Order [drafted by Country Companies] Compelling Melody Primm to Second Arbitration In lieu of the fact Defendant could not be timely confirm The First Arbitration Award According to RCW 7.04.150

SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

MELODY F. PRIMM,
Petitioner,

Vs.

COUNTRY COMPAINES,
Defendant.

No. 97-2-168228SEA

ORDER GRANTING DEFENDANT'S MOTION TO COMPEL ARBITRATION

THIS MATTER having come before hearing before the undersigned judge of the above-entitled court on the Motion to Compel Arbitration, and the court being fully advised in the premises, now therefore,

IT IS HEREBY ORDERED that this matter is subject to binding arbitration through the American Arbitration Association, pursuant to contract, Defendant's motion is therefore GRANTED.

DONE IN OPEN COURT this 26day of August, 1998.

S/Hon. Steven Scott

Presented by:
WILSON SMITH COCHRAN & DICKERSON
S/
By Kathleen A. Nelson
WSBA # 22826
Of Attorneys for Defendant.

Appendix E

Order [drafted by Country Companies]
Staying Melody Primm's timely filed
Complaint that
Was filed in King County Superior Court.
Because Country Companies failed to confirm the First arbitration award,
Melody could not move to vacate it under RCW 7.04.160. RCW 7.04.160 requires awards to be confirmed under RCW 7.04.150.
Melody thus filed a complaint which was stayed by this Order in violation of the First Amendment.

SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

MELODY F. PRIMM,
Plaintiff, No. 97-2-16822-8SEA

Vs. ORDER STAYING ACTION

COUNTRY COMPANIES,
Defendant.

Defendant Country Companies Insurance Group has moved for an order staying this action, based on RCW 7.04.030, and Plaintiff's written agreement to submit her claims to exclusive, binding arbitration. The Court has reviewed the motion and the evidence submitted to support it, and any opposition timely filed by Plaintiff and finds that Defendant's motion should be granted.

It is therefore ORDERED that this action is stayed.
DONE IN OPEN COURT THIS 30 day of Sept., 1997.

S/ Judge Finkle
Superior Court Judge

Presented by:

WILSON SMITH COCHRAN & DICKERSON
S/
By John M. Silk
WSBA #15035
Of Attorneys for Defendant